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CONCORD, N.H.

James J. Barry, Commissioner of Public Welfare
State House Annex
Concord, New Hampshire

Re: Frank Moore, Denied CAA, Hampton

Dear Mr. Barry:

This is in reply to your letter of May 13, 1958 in which you request our opinion as to whether or not it is permissible for the conservator of the above named applicant to apply for and receive O.A.A. benefits over the objection of his ward.

Investigation by your office and by me indicates that applicant's assets have been depleted for his benefit by the conservator. From a telephone conference with Assistant Commissioner Thompson it is my understanding that Attorney Pappas has verified the statements of Attorney Wayne Mullavey set forth in my letter to you of May 2, 1958.

RSA 167:8 Application for Assistance, does not specify by whom an application for O.A.A. should be signed, but RSA 167:9 and 167:10 imply that ordinarily the applicant, as the recipient, will be one and the same person. On the other hand, RSA 167:26 provides as follows:

"167:26 Guardian. If the person receiving old age assistance or aid to the permanently and totally disabled is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the commissioner may make the payments of such assistance to any responsible person, guardian, or corporation, for his benefit."

It is my opinion that the language of this last quoted section is broad enough to authorize the Commissioner to accept an application from and make O.A.A. payments to a conservator, if the Commissioner finds, "on the testimony of reputable witnesses", that the conservator's ward is "incapable of taking care of himself or his money."

C O P Y

James J. Barry, Commissioner
of Public Welfare

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In the final paragraph of your letter you inquire whether it is proper for you to request that a conservator's account be filed in view of the fact that the conservator was only appointed November 5, 1957. I still feel this is a reasonable request in view of Mr. Mullavey's statement that all of Mr. Moore's assets have been depleted. If such is the case there is no longer any need for continuing the conservatorship and the conservator should settle her final account. Such an account will make it a matter of record that Moore "has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health", within the meaning of RSA 167:4.

Very truly yours,

GTR, Jr/m

George T. Ray, Jr.
Assistant Attorney General